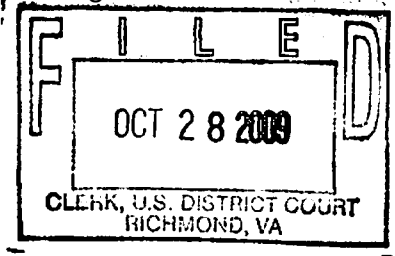


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division



JEFFREY MCCLELLAN,

Plaintiff,

v.

Civil Action No. 3:09CV498

GENE JOHNSON,

Defendant.

MEMORANDUM OPINION

Jeffrey McClellan, a Virginia inmate, submitted this action and requested leave to proceed in forma pauperis. A prisoner is prohibited from proceeding in forma pauperis:

[I]f the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). This Court has dismissed three of McClellan's prior suits as frivolous or for failure to state a claim. See e.g., McClellan v. Yates, 3:05cv639 (E.D. Va. July 25, 2006); McClellan v. Trent, 3:98cv429 (E.D. Va. Dec. 9, 1998); McClellan v. Hicks, 3:97cv69 (E.D. Va. Sept. 29, 1997). The allegations of the complaint do not suggest that McClellan "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Accordingly, by Memorandum Order entered on August 27, 2009, the Court denied Plaintiff's request to proceed in forma pauperis and

directed Plaintiff to submit the full filing fee within eleven (11) days of the date of entry thereof.

Plaintiff has not complied with the August 27, 2009 Order. Accordingly, the action will be dismissed without prejudice.

The Clerk is DIRECTED to send a copy of this Memorandum Opinion to McClellan.

It is so ORDERED.

_____/s/ REP
Robert E. Payne
Senior United States District Judge

Date: October 27, 2009
Richmond, Virginia